A BREIFE of the Pleadings before a Committee of the Councel of State, in relation to the Office of Postage, and particularly to Mr. Worseley his Title therin, on behalf of himself and the Common-wealth. As it was Argued on Tuesday, March the 13. 1659.

THE Counsel on Mr. *Witherings* (the younger) his behalf, being appointed first to speak, and to open Mr. *Witherings* his Title and Claime to the said Office. The said Counsel having done. The Counsel on Mr. *Worseley* his side did alleadge against the Title of the said Mr. *Witherings*, and against his Claime to the said Office, as followeth, *viz.*

1. That his originall Title deriving it self from one *Duquester*, came only at first by a mis-information of the said *Duquester*, who did obtaine a grant of it upon false and undue grounds.

2. That a Vote in Parliament in the Raigne of the late King, doth remaine upon Record against the said *Duquester*, his Patent, and his undue gaining of it.

3. That as there was a Patent of the Lord *Stan-*

hops in being before the ſaid *Duqueſters* Patent, ſo that the ſurrender of the Patent of my L. *Stanhops* was never yet made. And that the ſurrender of the ſaid Patent alleaged by the Counſel (on Mr. *Witherings* ſide) to have been made by the ſaid Lord is wholly Suppoſititious and Falſe.

4. That the Patent of the ſaid *Duqueſter* and *Witherings* is in the nature of a *Monopoly*, in regard that no Fees is expreſt in the ſaid Patent, nor any Rent reſerved to the King, both which make the ſaid Patent illegall.

Laſtly, It was alleaged by the ſaid Councel that admitting the ſaid Patent of *Duqueſter* and *witherings* to be good, yet the meane Aſſignments under which the preſent Mr. *Witherings* doth Claime, are illegall and voyd, as being made at ſuch a time when Mr. *Witherings* the elder was out of poſſeſſion of the ſaid Office,

The Councel on Mr. *Worſeley* his ſide, having thus excepted againſt the ſaid Title of Mr. *Witherings*, further Argued that either it was in the power of the Common-wealth to grant this Office of the Poſtage, or not.

If not in the power of the Common-wealth, it muſt be either becauſe it is an Office not grantable by Law, (as being againſt the juſt Liberty of the people) or elſe becauſe ſome other Patent or Grant was in being before for it.

That it was an Office grantable in it ſelf by Law the ſaid Councel proved at large, both in reference to the diſpatch of Affaires of State, and to the maintenance and ſuper-inſpection of all intelligence neceſſary

ceſſary for a State, which could not be managed without it.

This was further proved as to Mr. *Worſeley*'s caſe, in regard that although the ſaid Office had been diſputed or might be perhaps diſputable in the King's time, whether he had power to grant it or no ? yet that the Common wealth had a right therunto, it appeared by 2. Votes on Record in this Parliament, in the yeares 1649. and 1651. And to put this yet further out of doubt, That Parliament which mett in the year 1656. made an Act conſtituting this particular Office in the Common wealth, and Inveſting it in the power of the cheif Magiſtrate of the Common wealth, and his Succeſſours to diſpoſe of it, which being done in ſo full an aſſembly of the Nation, ought to have the more conſideration and regard had to it.

They concluded it therfore as indiſputable, that the Common-wealth, or the chief Magiſtrate therof (for the time being) had a power to grant ſuch an Office, as this of the whole Poſtage is, and being in their power to grant it, that the preſent grant made to Mr. *Worſeley* muſt conſequently be good, if no other or former grant was in being as a Barr in Law to it.

That no former Patent or Grant was in being ſince the ſaid Office was conſtituted in the diſpoſe of the Common-wealth was made moſt evident, in regard the Patent of the ſaid Mr. *Worſeley* was granted upon the very conſideration of a ſurrender duely made, and perfected under the Broad Seale of a former grant made by *Oliver* and *Richard* Lord

Protectors to *John Thurloe* Esquire of the said Office, grounded on the Act and Votes of Parliament before mentioned.

That if it should be admitted that any grant was in being before the said Act, or Votes of Parliament, or such as of right ought to opperate and have vertue in this case, notwithstanding the said Votes or Act of Parliament: whether it be the Title of Mr. *Witherings*, the Lord *Stanhop*, or any other. It could not be avoyded but must as necessarily be admitted, that the Common-wealth had no right or Title in all this time to grant it, or dispose of it, and consequently that they have none now, either to set it, improve it, or to demand any Rent for it, or to challenge a power to superinspect it, the Import of all which unavoydable consequences, and losse of soe great a Revenew, was offered to the said Honourable Committee to be especially considered.

The Title in Law thus cleared to be in the Common-wealth, and if in the Common-wealth, then necessarily to be in Mr. *VVorseley*, whose grant was grounded on the Interest of the Common-wealth, and upon a due surrender of a former grant held from the Common-wealth, as a full Removeall or Reply to all objections, or prejudice that might lye against the said Mr. *VVorseley*'s grant. In reference to his time of taking it, or to the Persons contracting with him for it, which were the Committee of Safety it was argued by the said Councel on Mr. *VVorseley*'s side as followeth, *viz.*

1. That if an Averment should lye against any Letters,

Letters Patents, from without the body of the ſaid Patent, or from or by reaſon of the goodneſs or badneſs of the Title or Right of the Government, of them that granted it, no man could at any time be ſure of any Eſtate that he held by any Letters Patents, at leaſt that the ſaid Eſtate ſhould be made good to him, and his heires after him. And that in regard no man could be ſure but that changes might come. And if one power ſhould perpetually and ſucceſſively call in Queſtion, or Null, the Grants or Acts of another power, for no other reaſon, or out of no other ground then this, becauſe they were the Acts of another power, not acknowledged by them to be rightfull, there could be no end of ſuch Diſputes, and conſequently no ſettlement could at any time be expected, of any ſuch Eſtates as were held by ſuch Grants, which would be no ſmall prejudice to the right and intereſt of the Subject in generall.

2. If Contracts where the Reuenue of the Commonwealth is concerned, ſhould after being once made, perfected and granted under the Great Seal, be perpetually ſubject to be queſtioned again by the ſucceeding power. Upon the Allegation only that it was not taken from a lawful power. Not only the credit of the publick (eſpecially when Changes are ſo frequent among us, as of late years) by ſuch diſputes be continually blemiſhed and leſſened. But the Reuenew of the Commonwealth it ſelf muſt likewiſe be prejudiced and diſtracted, in regard every man muſt be doubtful to meddle with it.

3. Several Preſidents were produced and cited

by the ſaid Councel, out of Ancient Records, and in ſeveral Kings Reigns, where all Grants under the Great Seal, if of things of Neceſſity and Utility to the Commonwealth, were alwayes confirmed and allowed, though made by a perſon that was an Uſurper.

4. It was agreed alſo both from ſeveral Preſidents, and Law-Caſes, that as there could be no higher Warrant or Power given to any man, then under the Great Seal, ſo that the Great Seal, when at any time given, and not connterfeit, was its own Warrant, and was valid, even though the Name of the perſon granting it, or other the like formallity were omitted in it.

5. It was urged, rhat the Name in which the preſent Contract or Pattent of Mr. *Worſley* did runne, was the Keepers of the Liberty of *England*, for themſelves and their Succeſſors; in which Name only all Grants can and do run at preſent.

6. It was pleaded, that the ſaid Contract or Grant inſiſted upon by the ſaid Mr. *Worſley*, was not a-Act in which the Common-wealth granted or gave away any thing from it ſelf to the prejudice of it. But an Act in and by which they did receive an advantage, and an advantage greater then before, or then ever was made of the ſaid Office; for which Reaſon alſo the ſaid Grant as well from the Merit of it, as from the Legality of it, ought to be countenanced and confirmed by the preſent Power.

7. It was argued, that admitting any thing in the ſaid Patent of the ſaid Mr. *Worſley*, were not valid, good or ſubſtantial in Law; yet foraſmuch as the ſaid Patent

Patent had not yet received any Legal Tryal, nor been legally ſo adjudged for any thing therfore that did appear it was good, and conſequently, until ſo queſtioned, adjudged, or legally avoided, the ſaid Mr. *Worſley* ought in right, and according even to the Fundamental Lawes of the Land, to be continued in his poſſeſſion, and to enjoy the benefits of it.

Laſtly, it was pleaded, that in Caſe the ſaid Patent or Grant, were condemned and made void by a Sentence legally given in Chancery, or in Parliament it ſelf againſt it. Yet that the ſaid Mr. *Worſley* ought not, nor could even in that Caſe, be legally diſpoſſeſſed of his ſaid Office, or be deprived of the profits of it, before a Writ of *Scire Facias* were firſt brought againſt him, and he were admitted to plead by his Councel in open Court, what he had to alledge for it. For the undeniable and undoubted truth of which Right to any perſon, holding any thing by Grant under the Great Seal, a Multitude of Preſidents were brought and cited by the ſaid Councel, out of the ſeveral Books of Law-Caſes.

Upon the whole, the ſaid Councel concluded, That it was *Meum* and *Tuum*, or a point of property or right, in which the ſaid Mr. *Worſley* and other perſons were concerned, that had by their Councel pleaded before the ſaid Honourable Committee, and being ſuch, the ſaid Council at Law humbly ſuppoſed it to be beneath, if not improper to the Cognizance of their Honours, or of the Councel of State, to interpoſe in it. And therefore foraſmuch as the ſaid Mr. *Worſley* had bin kept out of the ſaid Office by force. Foraſmuch alſo as the right and poſſeſſion

poſſeſſion he claimed of the ſaid Office, was not only in his own, but in the Commonwealths behalf, under whom he ſtood as Farmer.

It was by the ſaid Councel humbly prayed, that the ſaid Mr. Worſley *might be left to the Remedy and Protection of the Law, as being the Common Right of every man there to defend himſelf, or to anſwer any perſon that ſhould legally queſtion the validity of his ſaid Title or Grant.*

FINIS.